



**DEPARTMENT OF THE ARMY**  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
FORT MYERS REGULATORY OFFICE  
2301 MCGREGOR BOULEVARD, SUITE 300  
FORT MYERS, FLORIDA 33901

Regulatory Division  
West Permits Branch  
Fort Myers Regulatory Office

SEP 28 2001

**PUBLIC NOTICE**

Permit Application No. 199232015(IP-MH)

TO WHOM IT MAY CONCERN: This District has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act:

APPLICANT: BK Equities, LLC  
6700-1 Daniels Parkway  
Fort Myers, Florida 33912

WATERWAY & LOCATION: The project site involves freshwater-herbaceous wetlands within the Six-Mile Cypress Basin. The project is located at the southeast corner of the intersection of Daniels Parkway and Interstate 75 in Section 22, Township 45 South, Range 25 East, in Lee County, Florida.

LATITUDE & LONGITUDE: Latitude 26°32'30" N, Longitude 82°47'30" W

SITE HISTORY: A Department of the Army (DA) permit was previously issued for work on the 64-acre project site. The DA permit (number 199232015) was issued on October 22, 1996, and authorized the mechanical removal of exotic vegetation, primarily melaleuca trees (*Melaleuca quinquenervia*), from 23.82 acres of wetlands.

WORK & PURPOSE: The applicant is proposing to construct a commercial and industrial development to be known as the "D75 Commercial Center". The development would consist of eight individual lots. Purchasers of each lot would determine the type of building, its size and location, parking and surface water management features. The 64-acre project site is currently used as a pasture and consists of 23.82 acres of wetlands, 39.90 acres of uplands and a 0.28-acre road. The applicant proposes to impact 23.82 acres of wetlands by discharging 131,680 cubic yards of fill into 23.32 acres and excavating 24,200 cubic yards of material from 0.50 acres.

As compensatory mitigation for the 23.82 acres of impacts, the applicant proposes to purchase mitigation credit at a regional mitigation bank. A wetland functional analysis has not been provided and the details and adequacy of the compensation plan have not been finalized.

**THREATENED AND ENDANGERED SPECIES:** The project site is located within the primary and secondary management zone of a bald eagle (*Haliaeetus leucocephalus*) nest located on the west side of Interstate 75. The nest was first observed in December 2000. Field observations and monitoring indicate that the birds fly and forage primarily to the south. The applicant has not provided a management plan to minimize impacts to the bald eagle. Based upon the information provided, the Corps of Engineers has made a determination that the project may affect , but likely to adversely affect the bald eagle and is requesting formal consultation with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act.

The project site is also located in an area historically used by the federally endangered Florida panther (*Puma (= Felis) concolor coryi*). However, based on the location of the site adjacent to heavily utilized roadways and existing commercial developments, the project site does not provide habitat for the panther and the Corps of Engineers has determined the project would have no affect on the panther. The Corps of Engineers is unaware of any other threatened or endangered species concerns in the project area. This determination is being coordinated with the U.S. Fish and Wildlife Service via this public notice.

**NOTE:** This public notice is being issued based on information furnished by the applicant. This information has not been verified. The Corps of Engineers has verified the wetland jurisdictional boundary.

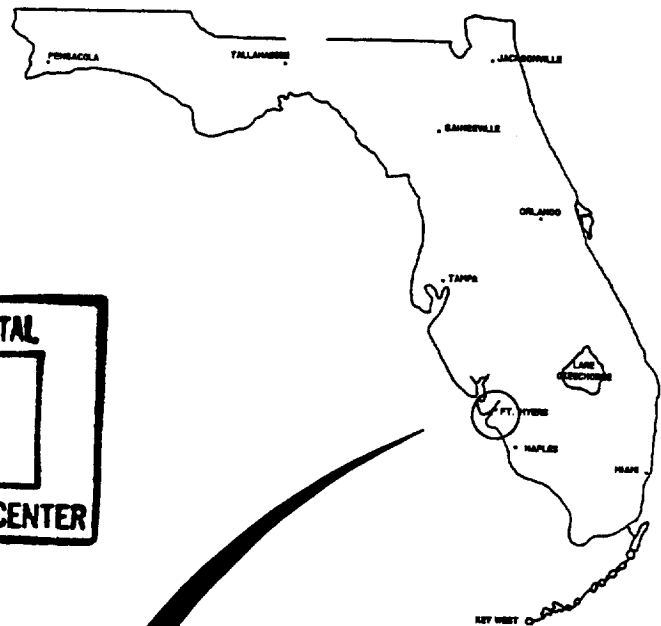
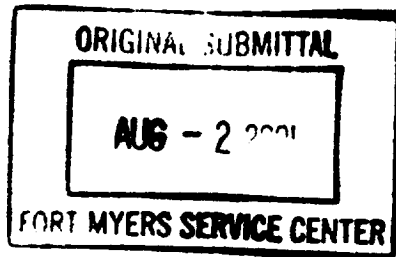
**AUTHORIZATION FROM OTHER AGENCIES:** The South Florida Water Management District (SFWMD) is processing an application for this project. The SFWMD application number is 010802-6.

Comments regarding the application should be submitted in writing to the District Engineer at the U.S. Army Corps of Engineers; Fort Myers Regulatory Office; 2301 McGregor Boulevard; Suite 300; Fort Myers, Florida 33901 within 30 days from the date of this notice.

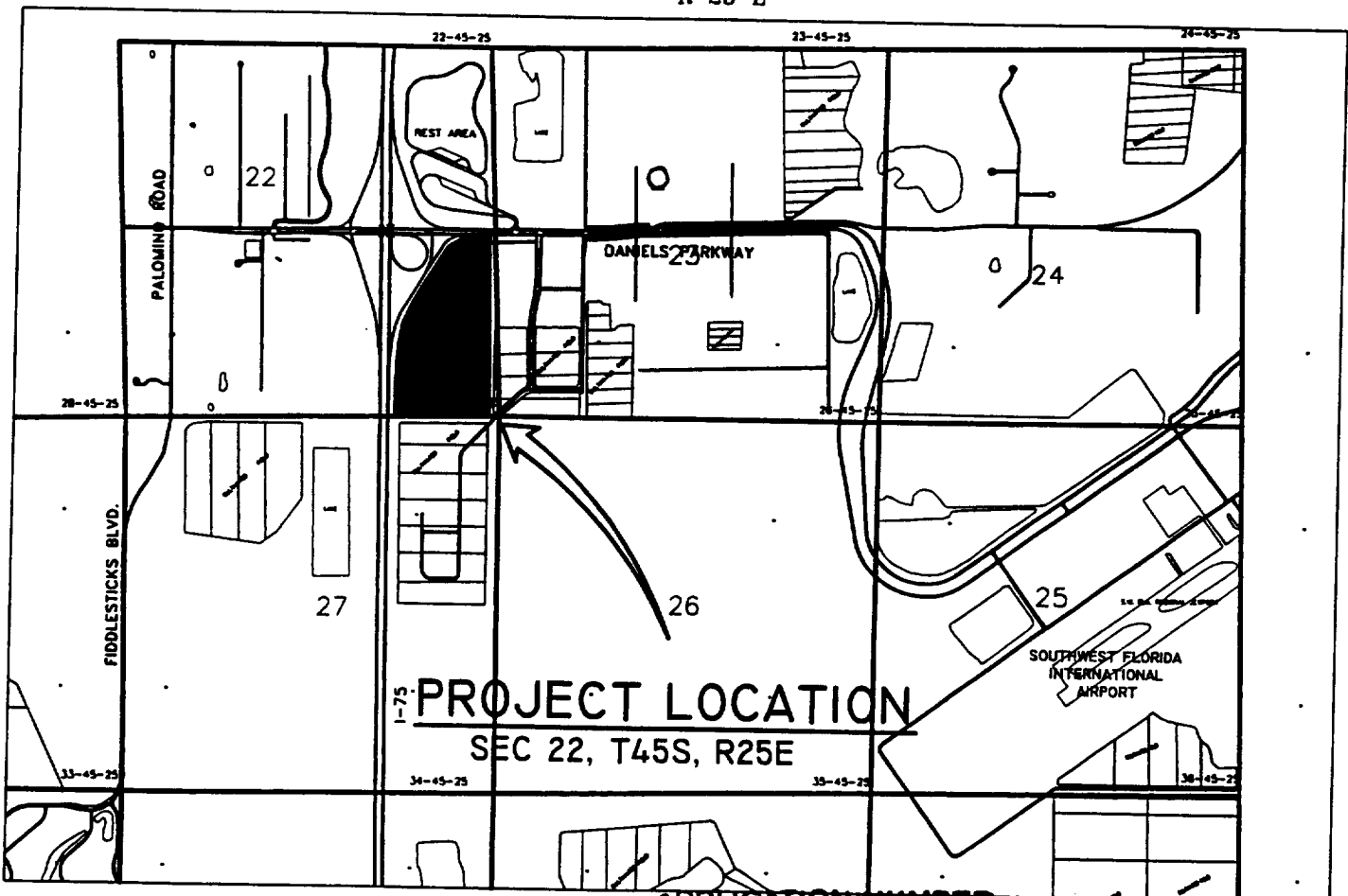
If you have any questions concerning this application, you may contact Ms. Mindy Hogan at the Fort Myers Regulatory Office, telephone 941-334-1975 or by e-mail [Melinda.G.Hogan@saj02.usace.army.mil](mailto:Melinda.G.Hogan@saj02.usace.army.mil).



N.T.S.



R 25 E



APPLICATION NUMBER

010802-6

PROJECT NAME: D75 COMMERCE CENTER

APPLICANT: BUNDSCHU KRAFT, INC.

PROJECT LOCATION MAP

DWG. No. 00BKK571-I

DRAWN BY: CLC

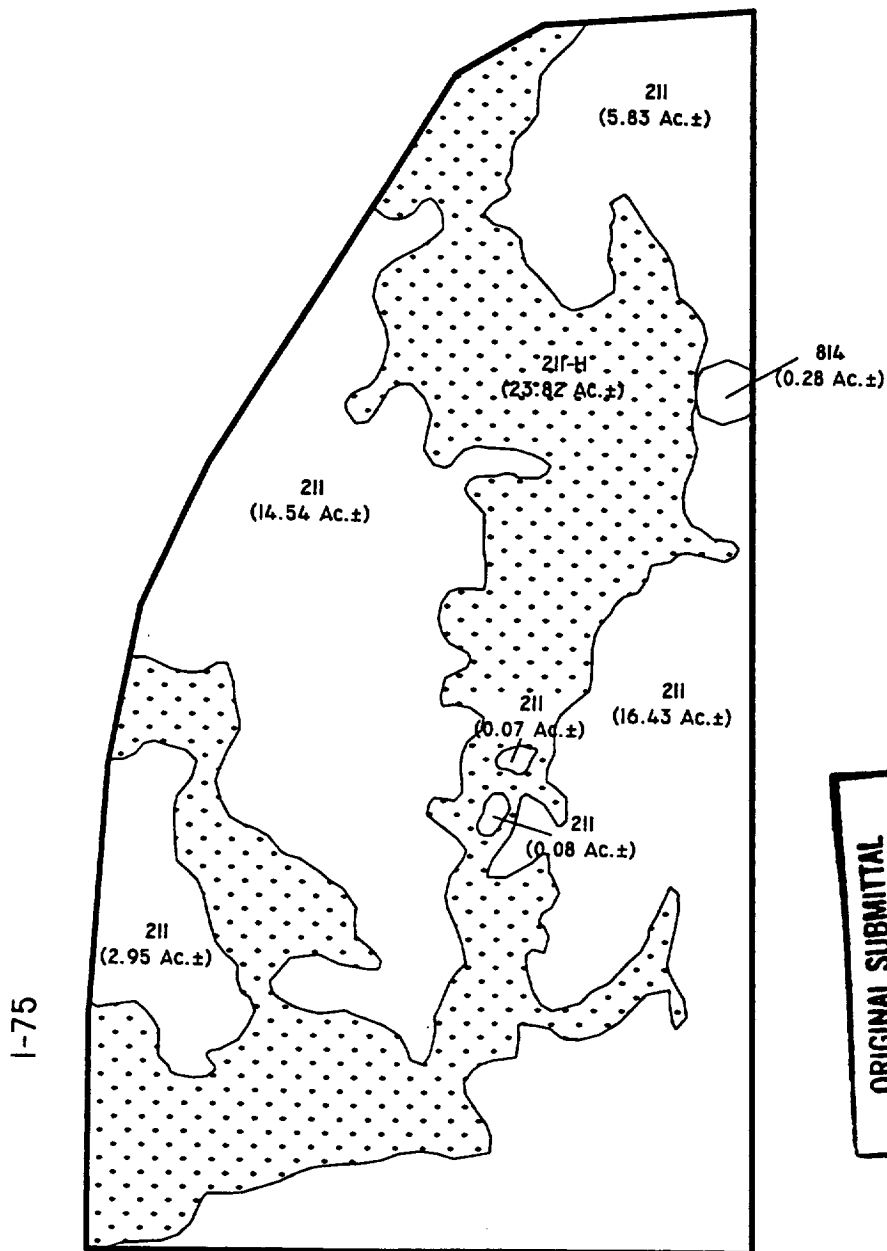
REVISIONS:

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D75 Commerce Center  
September 19, 2001  
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SCALE: 1"=400'

DANIELS PARKWAY



ORIGINAL SUBMITTAL  
AUG - 2 2001  
FORT MYERS SERVICE CENTER

APPLICATION NUMBER

010802-6

LEGEND:

COE AND SFWMD JURISDICTIONAL WETLANDS (23.82Ac.±)

FLUCFCS CODE	DESCRIPTION	ACREAGE	% OF TOTAL
211	IMPROVED PASTURE	39.90 Ac. ±	62.3%
211-H	IMPROVED PASTURE, HYDRIC	23.82 Ac. ±	37.2%
814	CUL DE SAC	0.28 Ac. ±	0.5%
		64.00 Ac. ±	100.0%

NOTES:

FLUCFCS LINES ESTIMATED FROM 1"=200' AERIAL PHOTOGRAPHS AND LOCATIONS APPROXIMATED.

FLUCFCS PER FLORIDA LAND USE, COVER AND FORMS CLASSIFICATION SYSTEM (FLUCFCS) (FDOT 1999).

SURVEYED BOUNDARY PER MORRIS DEPEW & ASSOCIATES DRAWING NO. 01025PROP.DWG., DATED JULY 12, 2001.

WETLAND LINES TAKEN FROM COE PERMIT SKETCHES PREPARED BY JOHNSON ENGINEERING, INC. COE PERMIT #199232015 (IP-SB).

PROJECT NAME: D75 COMMERCE CENTER

APPLICANT: BUNDSCHU KRAFT, INC.

FLUCFCS AND WETLANDS MAP

DWG. No. 00BKK571-2

DRAWN BY: CLC

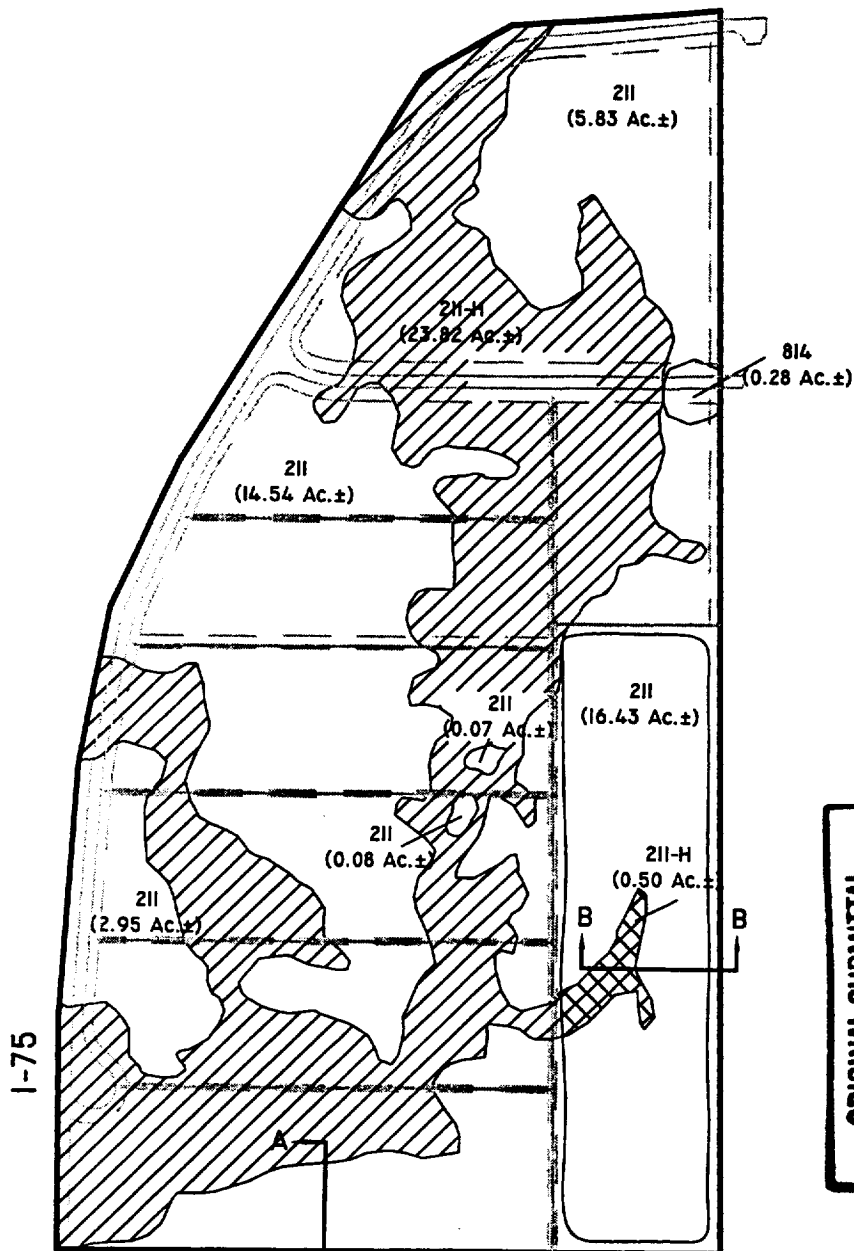
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SCALE: 1"=400'

DANIELS PARKWAY





ORIGINAL SUBMITTAL  
AUG - 2 2001  
FORT MYERS SERVICE CENTER

A APPLICATION NUMBER

010802-6

LEGEND:

-  COE AND SWMD WETLAND FILL (23.32Ac.±)  
 COE AND SWMD WETLAND EXCAVATION (0.50Ac.±)

FLUCFCS CODE	DESCRIPTION	ACREAGE	% OF TOTAL
211	IMPROVED PASTURE	39.90 Ac.±	62.3%
211-H	IMPROVED PASTURE, HYDRIC	23.82 Ac.±	37.2%
814	CUL DE SAC	0.28 Ac.±	0.4%
		64.00 Ac.±	100.0%

NOTES:

FLUCFCS LINES ESTIMATED FROM 1"=200' AERIAL PHOTOGRAPHS AND LOCATIONS APPROXIMATED.

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PROJECT NAME: D75 COMMERCE CENTER

APPLICANT: BUNDSCHU KRAFT, INC.

WETLAND IMPACT MAP

DWG. No. 00BKK571-3

DRAWN BY: CLC

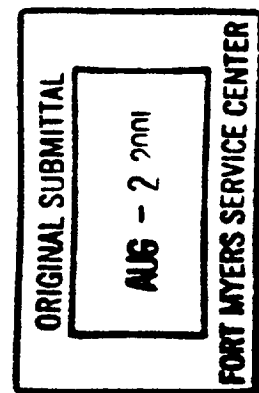
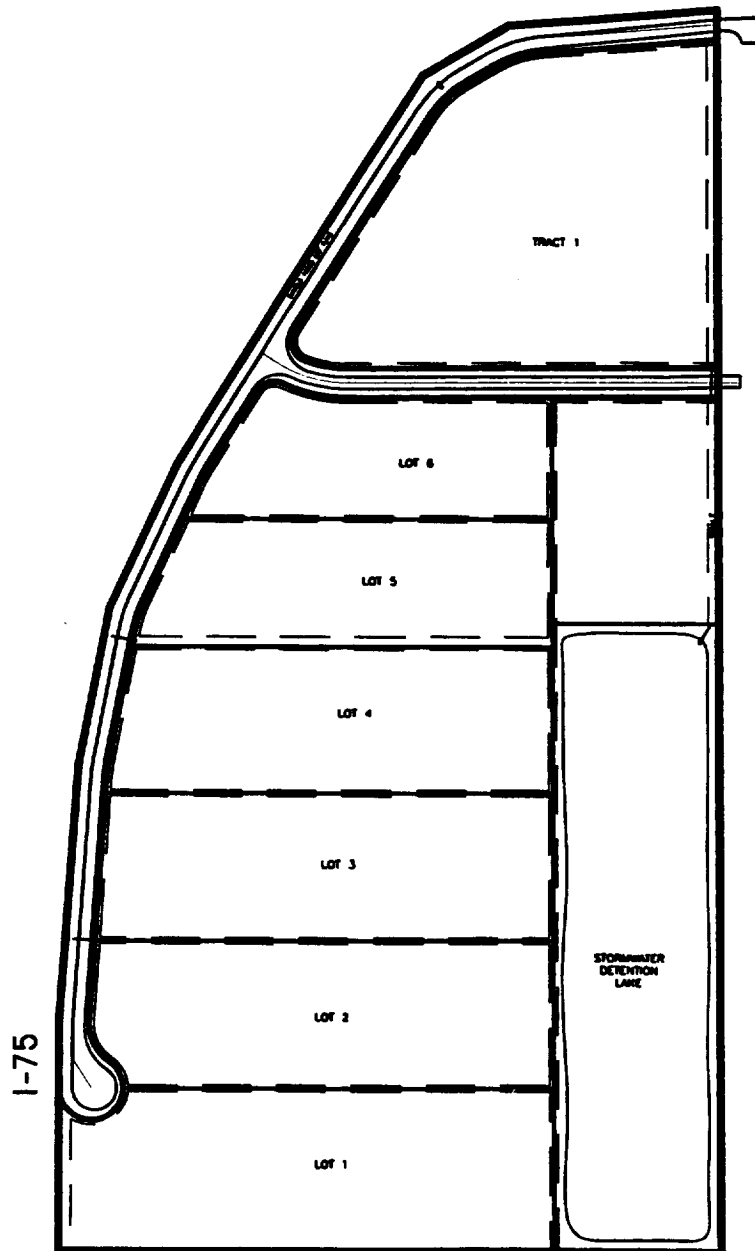
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SCALE: 1"=400'

DANIELS PARKWAY



APPLICATION NUMBER

010802-6100

NOTE:  
SITE PLAN PER MORRIS DEPEW &  
ASSOCIATES, INC. DRAWING NO.  
01025 DATED 7-27-01

PROJECT NAME: D75 COMMERCE CENTER

APPLICANT: BUNDSCHU KRAFT, INC.

SITE PLAN

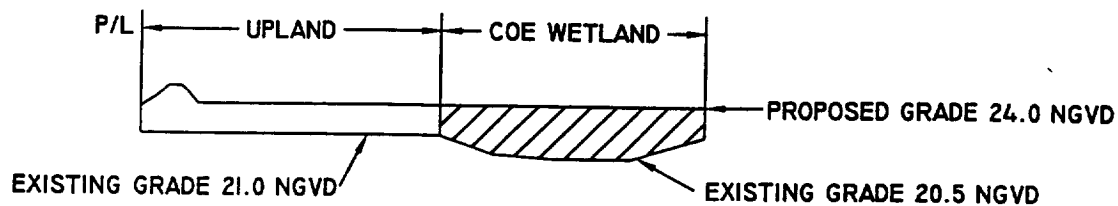
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DRAWN BY: CLC

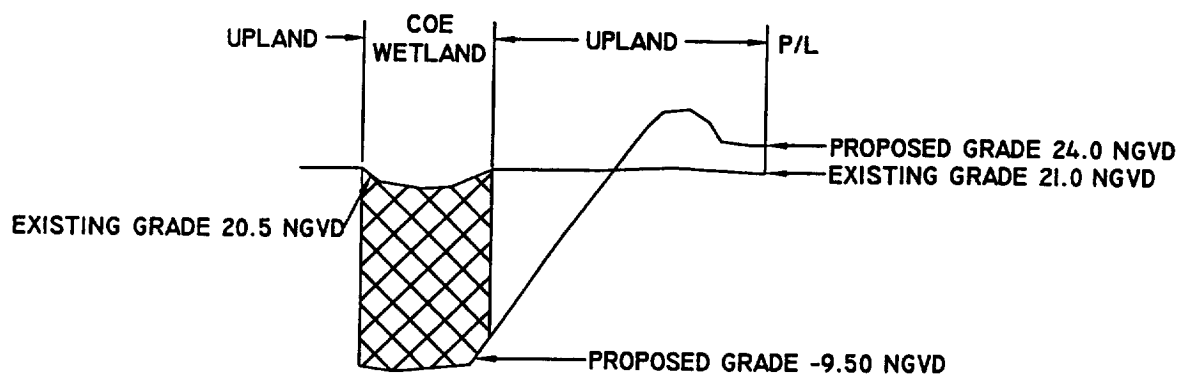
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200 100 0000031



A-A  
N.T.S.



B-B  
N.T.S.

LEGEND:



COE WETLAND FILL (131,680 CUBIC YARDS)



COE WETLAND EXCAVATION (24,200 CUBIC YARDS)

PROJECT NAME: D75 COMMERCE CENTER

APPLICANT: BUNDSCHU KRAFT, INC.

TYPICAL CROSS SECTIONS

DWG. No. 00BKK571-5

DRAWN BY: P.F.

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**IMPACT ON NATURAL RESOURCES:** Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.

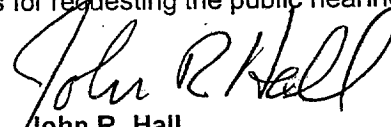
**IMPACT ON CULTURAL RESOURCES:** Review of the latest published version of the National Register of Historic Places indicates that no registered properties, or properties listed as eligible or inclusion therein, are located at the site of the proposed work. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine, Protection, Research, and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The U.S. Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make or deny this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**COASTAL ZONE MANAGEMENT CONSISTENCY:** In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with approved Coastal Zone Management Plan.

**REQUEST FOR PUBLIC HEARING:** Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

  
John R. Hall  
Chief, Regulatory Division